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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/692,583

10/24/2003

Louis L. Laske

VON-29

9482

42419

7590

06/20/2006

PAULEY PETERSEN & ERICKSON
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HOFFMAN ESTATES, IL 60195

EXAMINER

PASCUA, JES F

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,583

Applicant(s)

LASKE ET AL.

Examiner

Jes F. Pascua

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/1/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the top portion of the seal being non-linear (claims 28 and 35) and the top portion of the seal being arcuate (claims 29 and 36) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 19-22, 25 and 28-30 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by European Patent Application No. 0 251 757 to Gill.

4. Claims 1-7, 9, 10, 12-15, 19-22, 25, 30-34, 37 and 38 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S. Patent No. 6,935,783 to Carter. See Figs. 1 and 9.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gill.

Gill discloses the claimed invention except for the bottom portion having a radius of about 8 inches. It would have been an obvious matter of design choice to provide the bottom portion of Gill with a radius of about 8 inches, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

7. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gill.

Gill discloses the claimed invention except for the opposing side edge portions having a radius of about 70 inches. It would have been an obvious matter of design choice to provide the opposing side edge portions of Gill with a radius of about 70 inches, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

8. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gill.

Gill discloses the claimed invention except for the arc segment of the bottom portion having a height of about 0.125 inch. It would have been an obvious matter of design choice to provide the arc segment of the bottom portion of Gill with a height of about 0.125 inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

9. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gill.

Gill discloses the claimed invention except for the arc segment of the opposing side edge portions having a height of about 0.125 inch. It would have been an obvious matter of design choice to provide the arc segment of the opposing side edge portions of Gill with a height of about 0.125 inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

10. Claims 8 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter.

Carter discloses the claimed invention except for the arc segment of the bottom portion having a height of about 0.125 inch. It would have been an obvious matter of design choice to provide the arc segment of the bottom portion of Carter with a height of about 0.125 inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

11. Claims 11 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter.

Fig. 1 of Carter discloses the claimed invention except for the opposing side edge portions of the seal where it meets the bottom portion of the seal having an arc

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segment with a height of about 0.125 inch. It would have been an obvious matter of design choice to provide the arc segment of the opposing side edge portions of Gill with a height of about 0.125 inch, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

12. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carter.

Carter discloses the claimed invention except for the first layer being made from polyester or nylon material and the second layer from polyethylene material, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the first layer of Carter from polyester or nylon material and the second layer from polyethylene material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

13. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carter and U.S. Patent No. 3,434,652 to Shore.

Carter discloses the claimed device, as discussed above, except for the container having segmented, second seals. Shore discloses that it is known in the art to provide segment, second seals 18. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Carter with the segmented second seals of Shore, in order to reinforce the edge seals.

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14. Claims 1-5, 9, 10, 12-18 and 31-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,961,503 to Bell and U.S. Patent No. 2,756,154 to Mahaffy.

Bell discloses the claimed device except for at least one portion of the continuous seal 5a, 11, 12, 13a being non-linear. Mahaffy discloses that it is known in the art to provide enlarged portions in order to make at least one portion of an analogous continuous seal non-linear. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the seal of Bell with at least one of the enlarged portions of Mahaffy, in order to render the seal of the bag effective in withstanding internal pressures.

15. Claims 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell and Mahaffy, as applied in claim 31, and in further view of U.S. Patent No. 3,434,652 to Shore.

Bell and Mahaffy disclose the claimed device, as discussed above, except for the container having segmented, second seals. Shore discloses that it is known in the art to provide segment, second seals 18. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the container of Bell with the segmented second seals of Shore, in order to reinforce the edge seals.

Conclusion

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

17. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02. The "disclosure" includes the claims, the specification and the drawings.

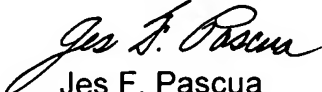
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jes F. Pascua
Primary Examiner
Art Unit 3727

JFP